

**PLANNING AND ZONING BOARD  
CITY OF FORT LAUDERDALE  
CITY HALL COMMISSION CHAMBERS – 1<sup>ST</sup> FLOOR  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA  
WEDNESDAY, SEPTEMBER 16, 2009 – 6:30 P.M.**

**Cumulative**

<b>Board Members</b>	<b>Attendance</b>	<b>June 2009-May 2010</b>	
		<b>Present</b>	<b>Absent</b>
Tom Welch, Chair	A	2	2
Catherine Maus	P	2	1
Rochelle Golub	P	3	1
Maria Freeman	A	2	2
Fred Stresau	P	4	0
Patrick McTigue, Vice Chair	P	4	0
Mike Moskowitz	P	4	0
Michelle Tuggle	P	4	0
Peter Witschen	A	3	1

**Staff**

Greg Brewton, Director of Planning and Zoning  
Wayne Jessup, Deputy Director of Planning and Zoning  
Ella Parker, Planner III  
Thomas Lodge, Planner II  
Adrienne Ehle, Planner III  
Anthony Fajardo, Planner III  
Sharon Miller, Assistant City Attorney  
Dennis Girisgen, City Engineer  
Cheryl Felder, Service Clerk  
Malik Mohammed, Structural Plans Examiner  
Jay Sahadi, City Engineer  
Frank Snedaker, City Architect  
Carol Ingold, Parks and Recreation Department  
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

**Communications to City Commission**

None at this time.

**Index**

	<b><u>Case Number</u></b>	<b><u>Applicant</u></b>
1.	3-ZPUD-08** *	Rahn Bahia Mar, Ltd. / Bahia Mar Park
2.	4-P-09	City of Fort Lauderdale / Flagler Heights Park

- |    |                          |  |
|----|--------------------------|--|
| 3. | 10-Z-09** *              | City of Fort Lauderdale / Flagler Heights Park |
| 4. | 129-R-07**               | Cargo Furniture                                |
| 5. | 2-T-09*                  | City of Fort Lauderdale                        |
| 6. | For the Good of the City |  |

### **Special Notes:**

**Local Planning Agency (LPA) items (\*)** – In these cases, the Planning and Zoning Board will act as the Local Planning Agency (LPA). Recommendation of approval will include a finding of consistency with the City's Comprehensive Plan and the criteria for rezoning (in the case of rezoning requests).

**Quasi-Judicial Items (\*\*)** – Board members disclose any communication or site visit they have had pursuant to Section 47-1.13 of the ULDR. All persons speaking on quasi-judicial matters will be sworn in and will be subject to cross-examination.

### **Call to Order**

Vice Chair McTigue called the meeting to order at 6:35 p.m. Roll was taken and all stood for the Pledge of Allegiance.

Vice Chair McTigue introduced the members of the Board, and Planning and Zoning Director Greg Brewton introduced the City Staff in attendance. Attorney Miller explained the quasi-judicial process used by the Board.

Vice Chair McTigue reminded those in attendance that Applicants should limit their presentations to 15 minutes or less; members of the audience representing groups should limit their comments to five minutes or less; and individuals in the audience wishing to speak should limit their comments to three minutes or less.

**Motion** made by Mr. Stresau, seconded by Ms. Golub, to defer Items 2, 3, and 5 until the October 21, 2009 Board meeting. In a voice vote, the **motion** carried unanimously.

**Motion** made by Ms. Golub, seconded by Mr. Stresau, to approve the minutes of the August 19, 2009 meeting. In a voice vote, the **motion** carried unanimously.

**Motion** made by Ms. Maus, seconded by Mr. Stresau, to hear Item 4 out of order on the Agenda. In a voice vote, the **motion** carried unanimously.

**4. Cargo Furniture**

**Anthony Fajardo**

**129R07**

**Request: \*\***

**Site Plan Level III / Waterway Use / Parking Reduction Request**

**Legal Description:**

Lot 8 and 9 together with that portion of the 16.00 foot alley lying adjacent to Lots 8 & 9, all being in CROSSROADS SHOPPING CENTER, according to the plat thereof as recorded in Plat Book 32, Page 22, of the public records of Broward County, Florida.

**Address:**

2301 NE 26 Street

**General Location**

Northwest corner of Federal Highway and NE 26 Street

**District:**

1

Disclosures were made, and any members of the public wishing to speak on this item were sworn in.

Stirling Moore, representing the Applicant, stated he is employed by Pierce Architectural Group and is project manager for Cargo Furniture. The Applicant wishes to demolish the existing building and construct a two-storey building at the mezzanine level. The square footage of the building will be expanded to 3452 sq. ft.; presently it is "roughly half that size." The Applicant is requesting a parking reduction as well as site plan approval.

Mr. Moore advised that a previous Board of Adjustment (BOA) hearing had approved a setback of 0 sq. ft. in front of the building, as it is located in a strip mall and other buildings are set at 0 sq. ft. as well.

While the Applicant is seeking a parking reduction, they hope to obtain approval to use parking spaces in the adjacent public lot. This would allow for the same number of spaces required by Code.

The floor plan for the property is split into two sections in the event the Applicant wishes to expand into a second bay in the future. It will be used for furniture display, with 1/3 of the above space located at the mezzanine level. Mr. Moore characterized the project as "very small."

Ms. Golub asked if the existing structure will remain. Mr. Moore explained that the entire segment of the building owned by Cargo will be demolished, and the business will expand 30 ft. to the north.

Anthony Fajardo, Planner, stated that the Applicant plans to demolish a one-storey building with 1497 sq. ft. of retail use and construct a two-storey, 3452 sq.

ft. structure. The Board of Adjustment variance applies to the entire front setback of the new building, as the application for the variance was for the new structure.

Ms. Golub requested clarification of the parking variance, as the Applicant has stated they were "not really asking for a reduction." Dennis Girisgen, City Engineer, explained that the lot will provide 57 of the 61 spaces needed by the building, and the reduction request is for 4 spaces.

Mr. Stresau asked that Mr. Moore further explain the request, and clarify a statement that Cargo employee parking would be "located in the shared lot."

Mr. Moore asserted that the requirement by Code is for 4.3 spaces, based on the square footage and occupancy use of the building. He pointed out that there is no space on-site, as the property line is "taken over" by the building. The parking study took into account the excess of available spaces in the adjacent public lot; the Applicant's request is that these spaces will be used for Cargo Furniture, as there is no vehicular use available on-site.

Mr. Stresau noted that there were 19 spaces to the north of the public lot, as well as the spaces in the existing private lot. Mr. Moore replied that the 19 and 20 spaces, respectively, are "tenant only" for the private lot, which is separate from the study. One space in this lot is reserved for employee parking by agreement with the lot's owner. Mr. Moore added that the private lot also services the surrounding buildings.

Director Brewton explained that the Applicant's parking requirement dictates one space for every 800 sq. ft., so he is only required to have 4.3 spaces available. The question is whether there is sufficient parking to accommodate the Applicant's request: to grant the Application, the Board must "feel comfortable" that there will be 4.3 spaces available in the general area.

Mr. Moore added that once the 4.3 spaces are occupied, 10 surplus spaces must remain; the parking study shows that 14 surplus spaces will actually remain.

Mr. Stresau did not feel the private lot satisfies the landscape ordinance, as it faces an adjacent residential neighborhood. Mr. Moore noted that this lot was not included in the study.

Ms. Maus observed that the private lot is not part of the site plan in question, so the Board may not impose recommendations on it.

As there were no further questions from the Board at this time, Vice Chair McTigue opened the public hearing.

There being no members of the public wishing to speak on this Item, Vice Chair McTigue closed the public hearing and brought the discussion back to the Board.

**Motion** made by Ms. Maus, seconded by Mr. Stresau, to approve the Application.

In a roll call vote, the **motion** carried unanimously.

**1. Rahn Bahia Mar, Ltd. / Bahia Mar Park**

**Ella Parker**

**3ZPUD08**

**Request: \*\* \***

**Rezone from SBMHA to PUD with Site Plan Review**

**Legal Description:**

All that part of Bahia Mar according to the plat thereof recorded in P.B. 35, P. 39 of the Public Records of Broward County, Florida, lying west right-of-way line of Seabreeze Boulevard, excepting therefrom Parcel 1; also excepting therefrom the north 80 feet of parcel 34.

**Address:**

801 Seabreeze Boulevard

**General Location**

West of Seabreeze Boulevard, east of the Intracoastal Waterway, south of Hall of Fame Drive and north of Harbor Drive

**District:**

2

Director Brewton recalled that at a previous meeting, there was a question as to whether or not the Board required some direction from the City Commission regarding this Item. Since that time, the City Commission has decided that the Board may hear the Item as scheduled. A previous question regarding a lease was "not a part of the Application before you tonight."

Courtney Crush, representing the Applicant, requested additional time for presentation of the Item, as it is a "complex plan" that includes several proposed structures. She noted that there were several members of the public present to speak on the Item, and felt it might also be helpful for the project's traffic engineer to testify. Ms. Crush felt the PowerPoint presentation would last roughly 35 minutes, with 7-10 minutes remaining for closing remarks.

**Motion** made by Ms. Golub to approve Ms. Crush's request for 35 minutes to present, with 10 additional minutes to close. In a voice vote, the **motion** carried unanimously.

Disclosures were made, and any members of the public wishing to speak on this Item were sworn in.

Peter Henn, also representing the Applicant, stated that he would focus on the Bahia Mar portion of his client's vision of the future. They hope to move forward, even in the current economy, with a major investment located in Fort Lauderdale. The plan before the Board tonight, he noted, is the result of working with the Planning Department and the Boat Show for two years, after which the plan has improved: there are now surface grass and buildings in 200x200 ft. blocks as required by Code, and parking is hidden beneath the park space. After input from the public, the buildings were lowered in height and the Boat Show space was expanded by 85,000 ft. The result is a "world-class destination" for the public.

Mr. Henn continued that the plan is the result of 2 ½ years of work, with neighborhood and Boat Show input. While "not everyone is happy," he felt they could work through the public process with the Board to reach a balance.

Some elements of the plan include:

- New retail in front of the existing Bahia Mar Hotel;
- New Waldorf Astoria Hotel and Waldorf Astoria residences;
- Restaurant and office space previously approved as "Phase 1;"
- Public park located atop the parking garage.

Mr. Henn concluded that the plan is a better one than the plan first presented to the City in 2006, and the Applicant has been "treated fairly" by the City during the process.

Mr. Stresau requested clarification that the most recent handout given the Board supersedes all previous material. Mr. Henn confirmed that it does.

Charles Siemen, planner and attorney, briefly addressed the lease issue as a matter of context. He acknowledged that Bahia Mar was originally improved in an effort to build a marina and improve the maritime economy; since the 1950s it has been in private operation as a result of "a series of leases." The current lease runs until 2062, he noted, and the Applicant's feeling is that the project can be completed whether or not additional terms and conditions are added to the lease.

He referred the Board to their information packet, which lists the uses currently permitted on the property: these include restaurant, cocktail lounge, yacht club, hotel, convention hall, retail, marine stores, charter boats, offices, and several other uses. Mr. Siemen characterized this as a "very clear articulation" that a broad range of uses are permitted under the existing lease.

He added that the lessee agrees to conduct business on the lease premises so as to "yield the greatest revenue possible," and the City has recognized that this is a way to generate more revenue for the community. The Boat Show is protected under both the current and new terms of the lease. Mr. Siemen wished

to make clear that the Applicant is working with City Staff on this and other issues.

Chris Smith, representing the Applicant, showed a rendering of Bahia Mar as it is today. He recalled that the Boat Show has been held annually in this area; however, due to a "lack of improvements at this site," it was designated as a blighted zone, and a Beach CRA, with a Beach Redevelopment Plan, was adopted for the area. In the 20 years since that time, Mr. Smith advised, there has been "very little" done.

In 2003, \$19 million went toward a marina renovation, although nothing was done to improve the upland part of the property. The open space on the Intracoastal Waterway was asphalt, he noted. The development of the proposed Bahia Mar Park will meet the goals of the Beach Redevelopment Plan.

Regarding the Boat Show, Mr. Smith reported that its annual economic input to the City is roughly \$500 million. He pointed out that there is international competition to host the Boat Show, and the City is attempting to ensure it keeps this revenue.

He continued that the City's #1 industry is the marine industry, while #2 is tourism. It is hoped that the Waldorf Astoria will be a "landmark" in Fort Lauderdale. He showed renderings of the hotel, adding that during the construction period, 2600 jobs will be created. When the project is completed, 800 jobs will be created.

There is also an increase of \$400 million to the City in the current lease, to be used throughout the City. Mr. Smith estimated that with the lease extension, this would be \$4.7 billion over the entire length of the lease.

He emphasized that while the project is located on the beach, it is intended to benefit the entire City.

Scott Lamont, principal planner with EDSA, addressed his firm's involvement in the project, noting that they have been active in the project for several years. He pointed out that the project was set up in three phases:

1. The marina project, which is complete;
2. The beach walk phase, with mixed-use office and restaurant space, which was approved by the City in January 2009;
3. The beginning of the beach promenade.

He noted that the majority of the project, as Mr. Smith had stated, is asphalt, and not inviting to the public, as it doesn't provide an opportunity for people to experience the waterfront. The proposed plan has dedicated 60% of its area to "people space," and most of the asphalt has been hidden inside the buildings or

beneath the park. The site plan was developed in thirds: the hotel area, the 1600 ft. beach walk, and the "main street core," which is anchored by the front door to the park along with the park space itself. This park space hides the majority of parking for the project and occupies 4.5 acres of the site. There are also a series of ground-level uses, including coffee shops and retail.

Mr. Lamont continued that 480 hotel rooms, 180 residential units, 50,000 sq. ft. of commercial uses, and the park, promenade, and marina will all be included in the project. He displayed renderings of the project, showing the Waldorf Astoria, the retail component, the residential buildings, and other views of the property.

He emphasized the connectivity of the project, which involves the 1600 ft. of beach walk. This area brings pedestrians into the project's various uses through promenades, boardwalks, and walkways, ultimately leading to the park.

He described the park as "bigger than a football field," noting that it is elevated 23 ft. above ground level, providing a view of the waterway. It also serves to hide most of the parking, and as exhibit space for the Boat Show. Features include an interactive fountain and a seating area. The elevated portion of the park would be set back 80 ft. from the seawall by "creating different layers." The park is connected through east and west by a series of "long, gradual" stairways and ramps. The parking garage has different levels as well, one of which is sufficiently tall to serve as exhibit space for the Boat Show.

Mr. Lamont characterized the Boat Show as equivalent to "bringing the Super Bowl here every year," and explained that it has been an overriding design principle for the project since its inception. He showed a cross-section of the plan to house the Boat Show, featuring a large tent on the green space and exhibit space in the parking garage below. This provides an opportunity to expand the Boat Show from 250,000 sq. ft. of exhibit space to roughly 334,000 sq. ft.

The construction staging and phases of the project will not affect the Boat Show, Mr. Lamont asserted. It will not be a 12-month construction site. The team is working closely with Boat Show management to ensure it will work within the construction schedule.

Suzanne Danielson of Kinley Horne & Associates, on behalf of the Applicant, stated she would show the traffic access points agreed upon with the Department of Transportation (FDOT). She displayed slides of these access points, which were approved as shown. One existing such point was eliminated, and the traffic signal at the Bahia Mar access driveway is being relocated 50 ft. to the north.

She added that a traffic impact study has been prepared with the assistance of the City's Traffic Engineer; this study was approved in June 2009. The Bahia Mar Park PUD is expected to pay roughly \$1 million in transit or concurrency fees.



As this is a mixed-use development, a shared parking study was conducted; Ms. Danielson pointed out hour-by-hour required usage for the development, as well as parking spaces available to the public. The use of these spaces peaks at 6 p.m. She noted that even at this time of greatest demand, the property has a surplus of 22 spaces.

Ms. Crush summarized that the presentation of these components of the park plan show how it was designed, what its uses are, and why it will serve as a "landmark property in a landmark development."

She stated the Applicant is requesting a Planned Unit Development (PUD), and asserted that the City adopted the PUD ordinance specifically for situations such as this one: the City wants a development consistent with the land use, with adopted plans, and "uniquely designed." She felt the plan before the Board is superior, with less volume in its buildings, greater open space, and superior community amenities and public benefits.

Ms. Crush showed a slide of the PUD intent, which is for a "unique or innovative development not otherwise permitted under the ULDR." The planning principles that may be incorporated include creation of open space and other long-term public benefits. She pointed out that a PUD is a site plan-specific zoning district; once a PUD is granted, the developer is "locked into" their site plan, including elevationa and uses.

She referred to the PUD criteria, noting that the project meets or exceeds each one: it is consistent with all plans and meets traffic adequacy, as well as creates an active and successful beach. It is also consistent with the Sasaki Master Plan, which took the development of this area into consideration.

Ms. Crush concluded that the project is unique, has superior planning, contributes to the greater good, and offers long-term benefits to the City. PUD conditions have also been proposed as a protection for the project's neighbors, including noise, public access to the property, and generous setbacks.

She distributed a report by Dr. Spencer Cowan of UNC-Chapel Hill, which shows a study of the appropriate amount of residential space to include in "16 acres of uplands." The project proposes 118 units, she noted. Dr. Cowan also studied the project's compatibility with its neighbors, including those across the waterway.

Addressing the Board, Dr. Cowan explained he has compiled two reports: one on residential units, and one on visual impact.

Regarding the residential aspect, he stated that residents living on-site will make the park and other public amenities feel safer; they will also support on- and off-

site businesses, many of which are within walking distance and contribute to the neighborhood's character. He felt this is compatible with the community's vision for the future of the Central Beach area. PUD is the only option that allows the developer to create a large exhibition space with a park overhead, because they have contained the various uses in fewer but larger buildings.

To mitigate the impact of these larger buildings, they have been set much further back than required: a building of 235.5 ft., the maximum allowed height of the residential towers, the setback is proposed to be over 340 ft., or more than twice what is required. This reduces the amount of view that is blocked and makes the buildings appear smaller, Dr. Cowan stated.

He concluded that the PUD option offers less impact and allows for the Boat Show and the park, both of which can only be accommodated by the PUD option.

Mr. Henn thanked the Board for hearing the team's presentation, and asked that the Board consider the Application following public comment.

Ella Parker, Planner, stated that the subject property, owned by the City of Fort Lauderdale and leased by the applicant, is presently occupied by the Bahia Mar Hotel and Marina as well as parking serving the existing uses. Applicant proposes to rezone the property from the South Beach Marina and Hotel Area District to Planned Unit Development. The rezoning request is to accommodate the following uses: 300 hotel units, 180 multi-family units, 16,245 sq. ft. of restaurant space, 24,060 sq. ft. of retail space, 17,210 sq. ft. of ballroom/meeting space, and 9,775 sq. ft. of spa. The PUD includes the previously approved Beach Walk at Bahia Mar project, consisting of 32,048 sq. ft. of marina offices and 19,650 sq. ft. of restaurant space at the northernmost portion of the site.

Ms. Parker explained that the criteria for PUD as defined in the City's Code include PUD, rezoning, adequacy, and neighborhood compatibility requirements, narratives for which are included in the Board's information packet. To assist the Board in determining if the proposal meets neighborhood compatibility criteria, a context plan, photographs, cross sections and perspective renderings depicting the height, mass, scale, shadow, materials and details of the proposed development as it relates to surrounding properties have been provided. Requirements that do not meet existing zoning and are requested as part of the PUD application include building height, length, width, number of parking spaces provided and tandem parking assigned to multi-family units. The specific dimensions are shown on Table 2 of the staff report.

Ms. Parker continued that the Board is tasked with the decision of whether or not the proposed zoning is appropriate based on information provided, as well as perspectives from the Applicant and the public present at tonight's meeting, and

letters received from the public. She noted that should the Board deny the Application, procedures for appeal do not apply. Conditions may be imposed if they are necessary to ensure the project meets PUD requirements, is compatible with the neighborhood in which it is located and is impacted by the PUD; mitigates any adverse impacts which arise in connection with the approval of the rezoning. Conditions for approval may relate to any aspect of the development, including but not limited to height, bulk, shadow, mass and design of any structure, parking, access, public transit and landscaping requirements.

If approval is recommended, conditions outlined in the Staff Report are proposed, including the Applicant's conditions. She noted the following additional two conditions:

- No. 16: In order to help define the confines of the proposed retail uses, all future retail uses shall be limited to those currently permitted in the Boulevard Business District as defined in ULDR Section 47-6-11.A.8;
- No. 17: As per the Marine Advisory Board recommendation, public docks must remain open to the public and not be sold.

Attorney Miller stated that the display board provided by the Applicant would be marked Exhibit 2; Dr. Cowan's report would be Exhibit 3; the Staff Report would be Exhibit 4; and items handed out prior to the meeting and added to the record would be Exhibit 5.

As there were no questions from the Board at this time, Vice Chair McTigue opened the public hearing.

Barbara Stuart, private citizen, stated that the City needs the revenue and jobs the project would provide.

Mary Fertig, representing the Idlewyld Improvement Association, noted she had written to the Chair to request 15 minutes to speak on the Association's behalf. Director Brewton clarified that this meant the question would be discussed and voted upon by the Board.

Ms. Maus pointed out that this was three times the requested limit, and she would be in favor of this decision if Ms. Fertig spoke on behalf of every resident of Idlewyld. Ms. Golub agreed with this, and asked that members of the public addressing the Board refrain from repeating what others had already stated. In a voice vote, the Board approved the extension of time for Idlewyld.

Ms. Fertig asserted that the Association is asking the Board to deny the zoning change, and a narrative from residents is provided in the Board's information packet. She introduced Michelle Mellgren, who had been retained to review the record and offer expert testimony regarding the requested change.

Ms. Mellgren noted that she had worked for the City regarding beach redevelopment from 1989-1994, among other qualifications. She declared that approval of the rezoning request would violate the Beach Redevelopment Plan as well as the City's ULDR. The Beach CRA was formed in 1989, pursuant to Chapter 163 of the Florida Statute; the City must follow the plan or go through a formal process to amend it, she pointed out. The same is true for the ULDR.

The zoning districts on the beach are incorporated into the Redevelopment Plan, with specifically delineated boundaries. Ms. Mellgren stated it is her opinion that rezoning of the property in question would violate the redevelopment plan, as it does not include PUD, but is instead designated a hotel and marina district (SBMHA).

She noted that the current zoning of the property was put in place to implement the redevelopment plan and create an "urban village." ULDR regulations state that the SBMHA zoning district must enhance the existing character, design, and scale along A1A, which are consistent with the intent of the redevelopment plan. The rezoning, however, would allow development that is roughly 350% longer, 191% wider, and 98% taller than what is allowed in the SBMHA district. Ms. Mellgren argued that the Applicant himself recognizes this by requesting a rezoning.

She felt the appropriate process would be applying for variances rather than a rezoning request; however, she acknowledged that as there is no hardship involved, the variances would most likely be denied. Ultimately she characterized the rezoning request as a means to circumvent the existing Code.

Ms. Mellgren noted that ULDR 47-37.3 contains conditions for PUD rezoning, including the criterion that the applicant must be the owner(s) of a property with fee simple title, or the owner's authorized representative. She pointed out that this does not apply to the Applicant unless the City Commission has formally recognized him as the City's representative in this matter.

Ms. Fertig referred to a PowerPoint presentation, stating that Bahia Mar has been a neighbor of Idlewyld for many years. She pointed out that the SBMHA zoning was intended to enhance the character of the area, which would be "forever changed" if the rezoning request is granted.

She asserted that the Application does not meet the criteria for rezoning, as it does not reduce traffic congestion, offer housing diversity, or offer more efficient land use. She noted that the parking garage covers 57% of the property.

In addition, Ms. Fertig identified problems within the plan itself, pointing out that "park" is a misnomer, as this space would occupy only four of the parcel's 16

acres. She characterized the park as a "rooftop garden built on top of a multi-story parking garage." She added that 28 ventilation fans will be built into the slope of the park, and the buildings surrounding the park will be more visible than the park itself.

She continued that Idlewyld residents are concerned for the barrier island itself, particularly as regards environmental issues: the "mass and density" of the proposed project will lead to further noise pollution, light pollution, and shadowing. She noted that sea grass mitigation at Bahia Mar was recently found to be out of balance, and asked what impact the project would have on this.

With regard to parking, she noted that the Applicant is not the first to request a parking reduction on the property; however, this reduction is requested "in spite of the extreme number of uses being added," such as the hotel rooms, residences, retail, and other uses.

Representatives of Idlewyld have met with Planning Staff multiple times and expressed their concerns about parking; they were told public lots in the area are available. Visits by residents to these lots showed them to be full, even during the off-season. Ms. Fertig expressed concern that the reduction does not take special events into consideration. She also felt the reduction does not take into consideration the "extremely low estimate" of 10 "live-aboards" in the largest mega-yacht marina in the state.

She asked that the parking reduction be denied as well.

Ms. Fertig displayed an aerial map showing how many residential neighborhoods depend on Las Olas Boulevard and A1A, and noted that there is no way to expand these roads. In addition, Idlewyld residents have pointed out more than once the "incorrect depiction" of the corner of Seabreeze Boulevard and Las Olas Boulevard, and she noted that the removal of the right-turn lane has caused traffic to back up on the Las Olas Bridge. She did not believe the Applicant's traffic engineers had studied these patterns during the busiest times of the year.

She stated that the proposed parking structure is 4.5x2.5 times the length and width of what is currently allowed in the zoning district, with buildings twice as high. In conclusion, she declared the project incompatible with the present SBMHA standard, and felt the Applicant should, instead of seeking a zoning change, "go through the process and do it the right way."

She concluded that Bahia Mar is the only continuously owned public land in the County, rather than a private project, and asked that the Board deny the Application.

Attorney Miller asked that Ms. Fertig's PowerPoint presentation be submitted as Exhibit 6.

Ms. Maus asked if the Idlewyld Improvement Association had voted among themselves on the issue of whether or not to support the project. Ms. Fertig explained they had attended a meeting hosted by the Applicant in April 2009, followed by a meeting of the Association in May, which was open to the public. A vote taken at that meeting reflected "over 70%" opposition to the application, from a representation of over 40 homes located in Idlewyld.

Ms. Golub asked if Idlewyld residents had made suggestions to the developer regarding the project. Ms. Fertig replied that she had met with Mr. Henn in July 2009 to discuss the project, including the Boat Show; he had offered to reduce the buildings' height by three stories as a result of this meeting. Her conclusion had been that "something really unique" could be done for the community with the Bahia Mar property, but she did not feel this was such a project.

Ms. Golub noted that when standing in the Idlewyld community and looking east, it was not possible to see what features existed beyond the boats docked in the marina; she asked what specifically the Association objected to, such as height or construction of buildings.

Ms. Fertig asserted that there are "multiple problems" with the project, including the following:

- The base of the parking garage is more than 2.5 times the size allowed;
- The massive parking reduction as well as added residential and hotel rooms;
- Exhibition space which contributes to the parking issue.

She concluded that while Idlewyld residents hope for the Bahia Mar project to succeed, it must be more appropriately planned in order to do so.

Ms. Golub asked Ms. Mellgren to clarify her assertion that the Applicant has "no standing to request a PUD," and asked if this means they should be "locked out" of appearing before the Board at all with their request. Ms. Mellgren explained that the Beach Redevelopment Plan is "very specific" with regard to the zoning districts, and if a change is desired, an applicant must go through a formal process to amend that plan to allow PUD in that district.

Ms. Fertig requested a response to the question of whether the Applicant has the proper standing to request the change. Attorney Miller stated that the Applicant does have the appropriate standing and would not otherwise be before the Board. Similar legal analysis by the City recognizes that PUD is an "appropriate vehicle" to accomplish the Applicant's desired changes.

John Lacz, President of the Marine Towers, stated he was also in objection to the project. The Marine Towers represents approximately 150 owners, who opposed the project by some 60-70% on the grounds of its being "way out of scale" with other construction on the barrier island.

He felt PUD is a "strategy for developers to maximize use of the property," and bypass the Code. It was Mr. Lacz's opinion that the City's citizens had paid for the creation of the Beach Redevelopment Plan, and the Applicant was seeking to circumvent this plan through a change to PUD.

Mr. Stresau noted that discussion of the revenue is "not [the Board's] job," and asked Mr. Lacz if Marine Towers residents had met with the Applicant or voted at a formal meeting. Mr. Lacz responded that they had not met with the Applicant, nor did he have a "hard number" of how many residents had voted on the project.

Gerry Smith, private citizen, showed a rendering of contrasting views of the beach from Las Olas Boulevard (Exhibit 7); the north view shows roughly 30% of the ocean, while the south view shows roughly 85% of the ocean. Mr. Smith asserted the project, if approved, would block an additional 10% of the view from the west. He noted that in other areas of the City there is "one high-rise residence after another" and felt it would be "a travesty" for this to occur along Las Olas Boulevard.

He also distributed copies of two articles (Exhibit 8) discussing the construction of high-rise hotels in Fort Lauderdale, from which "buyers have...walked away" during the real estate "bust," and asked if the City would be liable should the proposed project go into default. He asked that the PUD request be denied.

Joe Killian, private citizen, stated he has offices on-site at the Bahia Mar property, and felt the construction of the project offered a "historical opportunity" for the City. He felt the Application should be granted.

Tamara Tennant, President of the Riviera Isles Homeowners' Association, stated her neighborhood has not seen a formal presentation on the project, nor have they met or voted on it. She noted, however, that she has received many emails expressing concern with the "traffic and congestion," which they feel will be exacerbated by the project. Other concerns include the height of the building and the retention of the "old building." She asked that the Board take these concerns into consideration.

Ms. Golub asked if the Riviera Isles residents would prefer that the existing building be demolished. Ms. Tennant reiterated that no vote had been taken.

Paul Daly, private citizen, felt many impacts were "minimized" during tonight's presentation by the Applicant, including the aesthetic impact on Idlewyld, and felt

these should be taken into consideration. He added that this would be reflected economically on the property value of homes in Idlewyld

Walter Morgan, private citizen, stated the "real question" was one of neighborhood compatibility, and the Board's decision was whether or not PUD is "applicable and justified." He pointed out that "offsetting benefits" should be considered, as the additional height would allow for the reduction of the overall structural mass of the project, which would be for the good of the community's residents.

Phyllis Thomas, private citizen, stated she was speaking on behalf of Helen Surovek, who had left the meeting earlier. She provided a letter by Ms. Surovek (Exhibit 9) on behalf of the individuals who had not attended the Idlewyld meetings over the summer, and were asking that the Application be denied as currently planned.

Jerry Jordan, President of the Collee Hammock Homeowners' Association, stated that while he was not representing this organization at tonight's meeting, they are very concerned about the traffic, which "[narrows] down" into the Collee Hammock neighborhood and would create traffic jams on Las Olas Boulevard. He also noted that the Application represents a "really big project on our public land."

Miranda Lopez, private citizen, observed that while the project is "impressive," she was concerned that it was not correct for its particular location, and the Applicant is "overusing the possibilities" it could give to the City. She noted that the maximum height currently allowed is being doubled, and that the PUD requires compliance with neighborhood compatibility, which she did not feel is present.

Skip Zimbalist, President of Show Management, explained that this company operates the Boat Show, and wished to address the impact of the project on the Boat Show itself. He described Fort Lauderdale's Boat Show as "the most important boat show in the world," as well as unique in that it attracts an international audience. He declared the show is "at risk," as other countries are investing funds into creating similar shows, with "luxury lifestyles" available in their cities in addition to the shows. He concluded that Fort Lauderdale must create "a much better environment" for an international clientele.

Ms. Golub pointed out that the project is a nine- to ten-year project, and Phase 1 alone would take three to four years. She asked if this would accomplish the City's goal to create a better venue for the Boat Show. Mr. Zimbalist affirmed this was the case, as it would be known the new venue was "in progress."



Ms. Golub asked if, in a worst-case scenario, the project results in no more than a "fancier Bahia Mar," consisting only of two hotels with greater surface parking. Mr. Zimbalist felt this would still be an improvement over what the City has to offer now, and added that representatives of the Boat Show had worked closely with the Applicant on the phasing of construction. The Applicant will take extra steps to "wall off" the construction site to prevent it from creating an eyesore during the Boat Show, and will resume construction afterwards.

Ms. Golub asked if the operators have committed to keep the Boat Show in the City. Mr. Zimbalist replied that a long-term agreement is in place.

Mr. Stresau noted that a parking reduction is part of the Application, and asked that Mr. Zimbalist describe how attendees reach the Boat Show if they are not in cars. Mr. Zimbalist explained that a "network of boats and buses" takes attendees from different locations to the Show, and that "90%" arrive this way rather than by car. He added that Show Management was "neutral" on the matter of the parking reduction.

Frank Herhold, Executive Director of the Marine Industries Association of South Florida, stated that he is also a resident of Idleyld. He described the Boat Show as a "huge economic engine benefiting our community," and noted that Bahia Mar has always been "the heart of" the show; the venue has gradually become "less and less appealing" for the show itself, as well as for the international buyers who attend it.

He continued that the Boat Show needs a permanent home to accommodate its needs, including improved on-site amenities, and reiterated Mr. Zimbalist's statement that other waterfront communities are competing for its business. In addition, as a neighbor to the property, he felt he would enjoy using Bahia Mar Park.

Mr. Herhold quoted from an email sent to him by Mike Joyce of Hargrave Yachts, who could not attend the meeting. The email was in support of the project as well, from the perspective of a small marine business.

Joe Holland, member of the Central Beach Alliance, declared that the Boat Show is "paramount" to the project; however, he felt the residences included in the project were to the detriment of the hotel, and that the Boat Show "deserves something better," such as iconic architecture. He felt the renderings shown by the Applicant were misleading and did not show "all four buildings at grade at once."

Jim Feucht, beach resident, stated that the Applicant was using specific tactics in order to evoke favorable responses, including models of "ugly boxes" that can be built under the current zoning regulations and "beautiful drawings" of what can be

built once changes are made. He noted that the public park is "off the beaten path for most beach residents" and a selling point for the project's residential units. In addition, Mr. Feucht asserted that the Applicant had lobbied the Central Beach Alliance to an extent that some members felt the vote was "forced upon them."

He described the possibility of losing the Boat Show as "scare tactics" and stated that the project was not the world-class venue the Boat Show would deserve.

Chuck Hansen, member of the Central Beach Alliance and the Board of Directors of the Illini Condominium, stated he had attended all the developers' meetings regarding the project; the Condominium, and other surrounding property owners, had voted against supporting the project due to its enormity, which Mr. Hansen described as "a monstrosity in an otherwise posh residential neighborhood."

He asserted that the three tall buildings would block the view of the lake, marina, beach, and Intracoastal Waterway. In addition, he felt the length of time required to complete the project was unfair to nearby residents. There would also be no increase in the infrastructure of the barrier island to alleviate the traffic issues, which he noted were "bumper-to-bumper" for a great deal of the year.

Mr. Hansen concluded that the Boat Show has consistently grown in size every year and does not require the project to "save" it. He asked that the Board consider the voices of "those who are most impacted" by the project, and should they ultimately vote in its favor, that they not grant the height variance requested.

Jesus Ramon, private citizen, stated he is a planning commissioner in the city of North Miami, where PUDs have been successfully developed on both private and public land. He proposed approving the project with specific recommendations.

Tim Davey, Chairman of the U.S. Shipyard Association, asserted his support of the comments expressed by Mr. Herhold and Mr. Zimbalist and expressed concern that the City could lose its reputation as a mega-yacht destination. In addition, he added that the owners of these yachts are losing interest in Fort Lauderdale, and a "world-class product" is needed to retain this interest.

Ms. Golub asked if "world-class" referred to the site on which the Boat Show is held or the amenities available to the owners while they are in the City. Mr. Davey clarified that he meant both, as they "go hand in hand."

John Mann, Board member of the U. S. Super-Yacht Association and the Marine Industries Board of South Florida, stated he wished to represent the view of a small business owner in the industry. He explained that the marine industry is comprised of small businesses like his own, which wait for the Boat Show to occur each year, as they might close without its business. He felt the City should

show initiative in bringing the boat owners back from other destinations in the fall and winter, in order to keep individuals employed in the marine industry.

Andrew Knapinski, small business owner and member of the Marine Industries Association of South Florida, offered his full support for Mr. Herhold and Mr. Zimbalist's testimony, and emphasized the importance of the Boat Show to local small businesses as well.

John Stephens stated he wished to speak on behalf of Lewis Marine, a Fort Lauderdale-based company for which he works. He explained that the Boat Show provides him the annual opportunity to meet many of the manufacturers from which he purchases marine products, and emphasized its importance to small businesses in the marine industry.

Kathleen Genestra, member of the Harbor Inlet Association, stated she is a longtime attendee of the Boat Show, and asked that the Board consider a later approval time at which the projects currently "on hold" in the City are complete, as well as this effect on traffic and parking. She did not feel the project fit the "true character" of the City.

Ray Dettmann, private citizen, agreed that while the Boat Show needs a "world-class destination," the proposed project is not that destination. He added that traffic is already congested in the area, and felt the tax revenue the project would contribute to the City would be minimal compared to its profits.

Steve Glassman, President of the Central Beach Alliance, stated that the development team and CBA first discussed the project in April of 2008; the Board of Directors and general membership of the CBA have since met five times each, and in May 2009, voted 108-53 to support the rezoning and site plan.

He continued that "a solid majority" of the community wants the plan to be approved, due to the "difficult economic times" faced by the City. Furthermore, he noted that construction under SBMHA zoning would have increased density and negated the planned park. He also felt neither the developer nor the City's consultant saw an issue with increased traffic, which would not have been the case under SBMHA zoning.

Ms. Golub asked if, at any of the meetings with the developer, the CBA had addressed the setbacks off Seabreeze Boulevard, and if there was a concern that there was "not enough 'beach walk.'" Mr. Glassman responded that this had not been a concern, and declared there was more room on the sidewalks than from other hotel projects in the City.

Mr. Moskowitz asked if Mr. Glassman or the CBA had been compensated in any way by the developer with regard to the Application. Mr. Glassman asserted this was not the case.

Ron Centamore, private citizen, stated he was in favor of the project, as Bahia Mar is "tired" and "needs a facelift," as do many older hotels in the City. He did not feel there would be an appreciable change in traffic on the beach as a result of the project.

Kevin Clark, Vice President of Marine Operations for LXR, stated he has worked at Bahia Mar for more than 15 years, and asserted that the parking lot is "never full." Regarding the Boat Show, he described Fort Lauderdale as "under siege" with respect to its status as "Yachting Capital of the World."

Gary Cotton, private citizen, and asked if a market study had been conducted for the project, examining occupancy and the ability to sell condominiums on the property. He felt this meant there is insufficient financing for the project, and asked if the marine industry has been given a commitment by LXR. He argued the project should be deferred until it is certain that financing is in place, as it could be some time before the market is ready for a project of this size.

Sadler James, private citizen, noted that he is affected by the traffic "every day," but it does not prevent him from conducting everyday activities. He asserted that he is in favor of the PUD, as an iconic structure cannot be created under the current zoning. He added that he was not in favor of the parking reduction as requested, and did not feel residential units should be placed in the center of the project.

Vice Chair McTigue recognized City Commissioner Charlotte Rodstrom's arrival at this time (10:04 p.m.).

Art Seitz, private citizen, challenged the Central Beach Alliance vote as it had been characterized by Mr. Glassman, and stated he wished to know how many members of the CBA, as well as the number of proxies, had been present to vote, as he could not recall a CBA meeting with more than approximately 30 members present.

He continued that there are "about a billion dollars' worth of mortgages on [the] property," and the buildings are "too tall, too long, [and] too wide." Mr. Seitz did not feel the individuals who had voted in favor of the project understood what they were voting for, and concluded that the actual issue was "extending the mortgages" and "flipping" the property.

Fred Carlson, Vice President of the Central Beach Alliance, explained that the 108-53 vote on Bahia Mar included votes from six proxies, three buildings, and

three individuals. The CBA gives 10 votes to each building, he noted, which he felt is too small a number for some of the larger buildings. He continued that the developer had gone to "great lengths" to satisfy the members' "reasonable requests," and concluded that the development is "necessary."

John Terrill, Chair of the Marine Advisory Board, added that he is also Dockmaster of the Fort Lauderdale Marine Center, and has seen the City's competition for the Boat Show "firsthand." He urged the Board to support the project, and reminded them that the Marine Advisory Board had voted in favor of the project's marine component.

George Counts, private citizen, cautioned that the City should be "very careful" with regard to its waterfront property. While he is "all for" the Boat Show, he felt Bahia Mar should be used for this purpose rather than "hotels and condos," and added that as mega-yachts grow in size, eventually they will be too large to be accommodated.

Judy Russell, private citizen, asserted that the property has a mortgage of \$1.8 billion, and questioned the financial capability of the project. While she is in favor of the Boat Show, she also expressed concern that the Applicant did not have a Manatee Protection Plan or other certification from the Department of Environmental Protection.

Clemencia Dobiecki, architect and planner, stated she felt the project is good for the City and the marine industry, and agreed that the City must ensure they retain the Boat Show. She viewed the project as "a work in progress" and felt something iconic should be created for the City and the Boat Show on the property.

Jacqueline Scott, private citizen, stated she is a longtime citizen with "nothing against" the Boat Show or the Waldorf Astoria, but opposes "this particular project on this site," especially the parking reduction. She felt Bahia Mar is not only about the Boat Show, and the project is "not right for the area." She characterized the PUD as a "loophole" that would reduce the developer's constraints that exist within SBMHA zoning.

Sadler James protested the testimony of Commissioner Rodstrom, stating it was an attempt to "bias this Board." Commissioner Rodstrom clarified that she is allowed to address the Board, but not to reveal how she planned to vote on the issue.

She stated that at the most recent City Commission meeting, a parking study was approved for the entire barrier island, which has been requested to be "[sped] up" so it can come before the City Commission along with the Sasaki Master Plan.

She added that tonight's meeting is part of a "long process," and the Board might see aspects of the project before them again.

There being no other members of the public wishing to speak on the Item, Vice Chair McTigue closed the public hearing and brought the discussion back to the Board.

Mr. Siemen, representing the Applicant, stated that the record demonstrates the Applicant is in compliance with the requirements of the Comprehensive Plan and the PUD ordinance. He noted the traffic concerns expressed by the public, reiterating that an independent traffic engineer retained by the City had found the Applicant to have addressed the potential traffic impacts. With regard to parking, he characterized "parking reduction" as a misunderstanding of the Applicant's proposal, noting that in multiple-use projects "the parking requirements are different."

He added that the loss of the project could have a significant impact on the community's economy, and felt this is a rare opportunity to create an "urban waterfront park" at private, not public, expense.

Mr. Moskowitz asked the Applicant if he had fee simple ownership of the property, and if not, did this have ramifications regarding the project. Ms. Crush replied that the City has the fee simple ownership of the property, from uplands to the submerged land, while Rahn Bahia Mar holds the lease until 2062.

Ms. Golub asked for the reason behind the number of proposed residential units, or the height of the property. Mr. Henn explained that this was based in part on "what the property could legally develop from a density point of view" in order to fulfill certain aspects of the plan, such as "hiding" the parking underground or providing a home for the Boat Show. He pointed out that "a certain amount of residential" is required to both gain a "fair return" and pay for some of the infrastructure costs.

Ms. Golub asked if any aesthetic issues arose from the diversity in the project's density – for example, the difference in height from one building to the next. She expressed concern about phasing, and "where the project is left" following the phases of development. Mr. Henn advised that the Planning and Zoning Department had taken steps to ensure this would not be an issue, and the City would not be left with unfinished pieces of the project.

Mr. Moskowitz stated he felt an open forum such as this meeting was a privilege, and he appreciated the effort that brought this particular Application before the Board. He asserted he had "one fundamental problem" with the Application, which is that the Applicant lacks simple ownership of the property. He felt

permanent residences should be constructed on land owned by the City, and pointed out that units would not be purchased "for 99 years," but would be purchased indefinitely, as would any property investment. In addition, Mr. Moskowitz pointed out that the land in question has historical significance to the City.

Ms. Maus asked if financing is in place for the project, and whether its development is "tied to" a schedule. Mr. Henn replied that he cannot obtain financing for the project until more of its details are in place; while there is not a schedule for development, he explained that he had worked with the Planning and Legal Departments to identify four phases, although they could not say which phase would come first. Each phase must offer "public benefits" to the City, such as the walkway or landscaping.

Ms. Maus asked which buildings are part of each specific phase. Mr. Henn described the following:

- Phase 1: construction of Beach Walk;
- Phase 2: construction of the garage, pool, and retail components;
- Phase 3: construction of Waldorf-Astoria Hotel;
- Phase 4: construction of the parking structure and residential buildings.

He clarified that the marina and hotel will be open during all phases, and all phases must accommodate the Boat Show.

Ms. Maus followed up by asking if final approval of the project will set a schedule or time frame for development. Mr. Henn responded that it is believed the project can be completed within "about seven years," although he could not commit to that time frame.

Ms. Maus clarified if each year of the project's construction set specific goals for what must be developed, which would guarantee that "things are going to be built at certain times." Director Brewton advised that the Board may establish such a time frame as part of site plan approval; Ms. Maus pointed out, however, that "at least one" application for site plan extension may be anticipated, which could add up to three years to the current time frame for completion.

She continued by asking if the project accommodates "every aspect of" the Sasaki Master Plan, assuming that it will be approved and implemented in some form. Ms. Crush replied she believed this to be true, noting that the Master Plan is one reason the Applicant included the "green area park around the perimeter," among other considerations, such as moderated parking standards. This was one reason the City Commission has requested a parking study, she pointed out.

Ms. Maus requested that a City representative explain why the right turn lane at Las Olas Boulevard and Seabreeze Boulevard was removed. Mr. Girisgen

advised that he understood FDOT to have removed this lane, which was present when traffic counts were taken. The lane was removed, however, at the time of the Kinley Horne traffic study.

Mr. Stresau asked Mr. Henn for clarification of the proposed parking reduction. Mr. Henn characterized this as "truly not a parking reduction," explaining that as the project is for mixed use, the same parking spot used by an employee during the day can be used by a dinner guest in the evening. He believed the City's parking consultant has "signed off" on the terms of the Applicant's parking study.

Mr. Stresau requested further clarification regarding the phasing of construction, noting that he would not wish to see the project progress if the residences were completed but not the hotel: he felt the hotel phase should be "up front." Mr. Henn agreed with this assessment, pointing out he could not sell the Waldorf-Astoria residences unless they were "tied to" a Waldorf-Astoria Hotel.

Mr. Stresau asked how the residences could be constructed with occupied hotels on either side. Mr. Lamont referred the Board to SI-019 of the information packet, which shows the overall phasing plan: he described Phase 4 as a "multi-step process" beginning with the park, garage, and Boat Show infrastructure, followed by use of the various roadways in and out of the project and the pedestrian and vehicular corridors on the property. This allows the Applicant to "manage our own construction [of the residences]" while the hotels and marina continue to operate.

Mr. Stresau pointed out that one can only go north through the signalized intersection at the project's center, which means the south entry point could not be used for construction entry and exit. Mr. Lamont explained this area would be "further developed and elaborated as we go through," including creation of a new central entrance to allow for additional temporary access points.

In conclusion, Mr. Stresau moved on to the traffic question, recalling that the Central Beach Action Plan of 1989 had guaranteed a specific number of trips in the area; he asked if this study remains applicable in 2010. Suzanne Danielson, representing the Applicant, felt this was a "policy issue" better suited to City Staff. Mr. Girisgen stated the City believed the study to be valid, although he acknowledged it "could be updated."

Mr. Stresau expressed particular concern with delivery traffic into and out of the site, noting that the City DRC had discussed various ways to mitigate this. Mr. Girisgen explained that the Applicant's traffic consultant cannot solve the "weekend traffic problem" on the barrier island; in addition, they do not believe the "weekday p.m. peak" creates a major impact to the island's system. On weekends, however, incremental measures can be taken, such as signal timing and control of employees' shift hours, although Mr. Girisgen acknowledged these would not solve the problem.



Mr. Stresau noted that the Beach Walk project would contribute roughly \$700,000 to the traffic concurrency requirements; Ms. Danielson confirmed that Beach Walk would contribute \$250,000, while the remainder of the \$1 million toward new surface routes and work on existing routes would be contributed by the project before the Board tonight. Mr. Stresau stated he did not see how any of this, unless it contributed toward reinstating the right turn lane removed by FDOT, would mitigate traffic on the beach.

Ms. Danielson reminded the Board that large vehicles regularly enter and exit the property during setup and breakdown of the Boat Show each year.

Ms. Golub noted that a Staff condition for the project requires each phase to comply with the ULDR, and asked if a PUD would replace these existing ULDR requirements. Director Brewton advised the ULDR items would be replaced "based on the items... requested to be under the PUD," which means the zoning laws would now be placed in the PUD.

Ms. Golub stated she had read the City Commission's directions to the Board as entered into the record, and felt they created a "vicious circle." While she agreed the PUD is the correct vehicle to accomplish the City's private partnership with the Applicant, she felt the Board was being asked to vote on "an impossible issue," as they had difficulty knowing if the PUD was truly part of the "vision for the City."

She continued that should she vote in favor of the project, it would be a vote with a caveat, which she wished to be part of the record: she did not feel a yes-or-no vote was appropriate, as the vote is ultimately dependent upon considerations such as financing or the City's private partnership. She added she would wish to strengthen the Staff conditions to ensure that should the developer walk away from the project, it would "start over." She felt there should also be a time limit for the project, as well as financial guarantees on the developer's and the City's part to complete an unfinished portion.

Ms. Tuggle noted that several references had been made to the lawfulness of either the PUD change or the proposed residential use, and asked Attorney Miller to clarify this issue. Attorney Miller stated the rezoning must be adopted through an Ordinance process to change the law; the Applicant is applying to change the law as it applies to the property, which she believed is an authorized change the City Commission can make.

Mr. Stresau noted that Ms. Parker had added two conditions to the Staff recommendations, one of which referred to retail uses. Ms. Parker stated the condition would clarify these proposed retail uses in order to "define their confines."

The additional condition added by Staff referred to the requirement that the docks at the marina would remain open to the public. Attorney Miller identified a question, however, as to whether this referred to the entire marina or a portion of it. Mr. Henn clarified that the Marine Advisory Board's condition applied to "dockominiums," which were not intended to be part of the project.

Mr. Stresau stated he wished to add the condition that the hotel be constructed before the residential towers.

Ms. Golub asked if she might add a condition guaranteeing "financial assurances" that phases would be completed even if the entire project is not completed. As Attorney Miller advised that this is an appropriate request under PUD, Ms. Golub added that she wished to add the condition that the City and its Applicant partner reach agreement on financial assurances for the completion of each phase. She also wished to add the condition that the City and its Applicant partner, as a condition of final approval, reach agreement on a schedule of construction, with appropriate penalties, if construction deadlines are not met.

Mr. Moskowitz felt if conditions are being added to approval, the Board should reconsider whether or not approval is ultimately in the community's best interest.

Mr. Stresau pointed out that if the Board does not approve the project, but sends it on to the City Commission for consideration, there will not be debate regarding an agreement on the lease for the property.

Ms. Golub added that she felt conditions are "not... a sign of uncertainty" regarding development, but a means of ensuring concerns are not ignored.

Ms. Parker also offered a clarification that Staff condition #15 states the Applicant's conditions will be forwarded to the City Commission along with the Staff conditions.

**Motion** made by Mr. Stresau, seconded by Ms. Golub, to approve the Application with Staff, Applicant, and Board conditions. In a roll call vote, the **motion** carried 4-2 (Mr. Moskowitz, Ms. Maus dissenting).

## **6. For the Good of the City**

Director Brewton asked that the Board consider a special meeting for the Neighborhood Development Criteria Revision Initiative, and advised that November 4 or 5, 2009, is the target date, as the appropriate consultant is unavailable in October. It was decided that this special meeting would take place at 6:30 p.m. on Wednesday, November 4.

There being no further business to come before the Board at this time, the meeting was adjourned at 11:59 p.m.



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Chair

*Weel*

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Prototype

*Brigitte Chiappetta*

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[Minutes prepared by K. McGuire, Prototype, Inc.]